



4410-15

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under The Comprehensive Environmental Response, Compensation, and Liability Act

On December 22, 2016, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Rhode Island in the lawsuit entitled United States v. ACS Industries, Inc. et al., Civil Action No. 1:16-cv-00665-S-LDA.

The proposed Consent Decree (“Decree”) relates to the Second Operable Unit (“OU2”) of the Peterson/Puritan, Inc. Superfund Site located in Lincoln and Cumberland, Rhode Island. There are 91 Settling Defendants. Under the proposed Consent Decree, the 22 Settling Performing Defendants agree to perform the remedy selected by the Environmental Protection Agency (“EPA”) for OU2, pay EPA’s interim response costs (response costs incurred from September 30, 2015 to the date the Consent Decree is approved by the Court), and pay future oversight costs of both EPA and the State of Rhode Island. The 69 Settling *De Minimis* Defendants agree to pay a total of approximately \$8.5 million to fund performance of work at OU2. The Settling *De Minimis* Federal Agencies (United States Postal Service, the United States Department of Veterans Affairs, the United States Department of Defense, and the United States Department of the Treasury (IRS)), are paying an additional \$975,000 to fund performance of the work at OU2 to resolve alleged contribution liability at OU2. The Statement of Work, included as Appendix K to the Decree, provides the framework for implementation of the cleanup plan as set forth in the Record of Decision (“ROD”) signed by the Regional Administrator for Region 1 of EPA on September 8, 2015. Among other things, the selected remedy calls for the construction of a multi-layer impermeable cap over the J.M. Mills Landfill and the Nunes Parcel. The Remedial Design, Remedial Action, and Operations and Maintenance at OU2 are estimated

to cost approximately \$40.3 million. Over the past decade, EPA has recovered about \$8.4 million from potentially responsible parties at OU2 that have filed for bankruptcy. EPA will make these funds available to the Settling Performing Defendants to partially fund the work. The settlement will not recover EPA's past costs related to OU2, which are about \$3.4 million.

The United States has provided all of the Settling Defendants with a covenant not to sue under Sections 106 and 107(a) of Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), and Section 7003 of Resource Conservation and Recovery Act ("RCRA"), relating to OU2. The covenant provided to the Settling Performing Defendants has a reopener for new information and unknown conditions. The covenant provided to the Settling *De Minimis* Defendants does not have a reopener for new information or unknown conditions. EPA has agreed not to take administrative action against the Settling *De Minimis* Federal agencies pursuant to Sections 106 and 107(a) of CERCLA, and Section 7003 of RCRA, relating to OU2.

The State of Rhode Island has filed a complaint related to this matter in State of Rhode Island v. ACS Industries, Inc., Civil Action No. 1:17-cv-00024, and is a party to the settlement.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to United States v. ACS Industries, Inc. et al., Civil Action No. 1:16-cv-00665-S-LDA, D.J. Ref. No. 90-11-3-1233/9. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov

By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611
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Under section 7003(d) of RCRA, a commenter may request an opportunity for a public meeting in the affected area.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611
Washington, D.C. 20044-7611

Please enclose a check or money order for \$206.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is \$28.50.

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Environment and Natural Resources Division

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